

OCA FILE

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EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

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9 JUNE 1989

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## ENROLLED BILL REQUEST

4 pages (counting  
transmittal sheet)

TO:

LEGISLATIVE LIAISON OFFICERS:

NATIONAL SECURITY COUNCIL - G.P. HUGHES 458-2224  
STATE DEPARTMENT B. BACHRACH 647-4463  
DOD - S. T. BRICK - 697-1305  
COMMERCE - M. A. LEVITT - 377-3151  
JUSTICE - C. T. CRAWFORD - 633-2141  
TREASURY - R. S. CARRO - 566-8523  
LABOR - S. ZINMAN - 523-8201  
ENERGY - B. RABBen - 586-6718

OUSTR - J. BOLTEN  
395-3150

OSTP - B. DIERING  
395-4692

CIA - E. N. GARRE

SUBJECT:

ENROLLED BILL SJR 113

In accordance with OMB Circular No. A-19, your written views and recommendation for Presidential action are requested on the attached enrolled bill facsimile.

Please consult section 10 of OMB Circular No. A-19, pages 12-14, for instructions regarding the preparation of enrolled bill letters and the procedures to be followed on enrolled bills.

Within TWO DAYS (including holidays but excluding Sundays) after receipt of this request, your reply (original and one copy) should be delivered VIA SPECIAL MESSENGER to Mrs. Julia Yuille, Room 7201, New Executive Office Building. (In addition, you may wish to send in advance a copy of your views letter using telecopier equipment.)

Your cooperation in meeting this deadline is needed to provide maximum time for Presidential action on the enrolled bill.

A regular facsimile of the enrolled bill is being sent to you in the regular messenger service. The legislative analyst handling this bill is R. PETERSON.

JAMES C. MURR  
Assistant Director  
for Legislative Reference

Attachment

**Important Enrolled Bill**

S. J. Res. 113

# One Hundred First Congress of the United States of An

## AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday, the third day of January,  
one thousand nine hundred and eighty-nine*

### Joint Resolution

Prohibiting the export of technology, defense articles, and defense services to  
codevelop or coproduce the FS-X aircraft with Japan.

*Resolved by the Senate and House of Representatives of the United  
States of America in Congress assembled,*

#### SECTION 1. CODEVELOPMENT OF THE FS-X WEAPON SYSTEM.

(a) IN GENERAL.—The President shall ensure that all technology, defense articles, and defense services provided by the United States or any United States corporation or entity to Japan pursuant to the agreement described in subsection (b) to codevelop the Support Fighter Experimental (FS-X) weapon system shall be subject to the requirements of subsections (a), (c), and (d) of section 3 of the Arms Export Control Act.

(b) DESCRIPTION OF AGREEMENT.—The agreement referred to in subsection (a) is the agreement for which the President submitted a certification pursuant to section 36(d) of the Arms Export Control Act on May 1, 1989 (transmittal no. MC-9-89).

#### SEC. 2. COPRODUCTION OF THE FS-X WEAPON SYSTEM.

(a) IN GENERAL.—In the event that the United States and Japan seek to coproduce the FS-X weapon system—

(1) the United States and Japan shall negotiate and sign a Memorandum of Understanding (MOU) containing the terms and conditions for that coproduction; and

(2) such MOU shall—

(A) prohibit the transfer to Japan of critical engine technologies (including, but not limited to, hot section and digital fuel control technologies); and

(B) prohibit the sale or retransfer by Japan of the FS-X weapon system or any of its major subcomponents codeveloped or coproduced with the United States.

(b) APPLICATION OF ARMS EXPORT CONTROL ACT.—Technology, defense articles, and defense services resulting from any coproduction of the FS-X weapon system by the United States and Japan shall be subject to the requirements of subsections (a), (c), and (d) of section 3 of the Arms Export Control Act.

(c) POLICY ON UNITED STATES WORKSHARE.—It is the sense of the Congress that any Memorandum of Understanding (MOU) between the United States and Japan on coproduction should specify that the United States share of the total value of the coproduction shall be not less than 40 percent of that value, including the value of manufacturing spare parts and other support items which are part of the lifetime maintenance costs of the FS-X weapon system.

#### SEC. 3. GAO REPORT.

(a) IN GENERAL.—Beginning 6 months after the date of enactment of this joint resolution, and every 12 months thereafter, the Comptroller General of the United States, after consultation with

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appropriate officials of United States agencies represented on the Technical Steering Committee, shall submit to the Speaker of the House of Representatives and the chairmen of the Committees on Foreign Relations, Armed Services, Commerce, Science, and Transportation, and Banking, Housing, and Urban Affairs of the Senate a report describing the progress made in implementing the Memorandum of Understanding (MOU) Between the United States Department of Defense and the Japan Defense Agency on Cooperation in the Development of the FS-X Weapon System, signed on November 29, 1988, and related documents thereto. Such report shall state—

(1) whether any technology involved in development of the FS-X weapon system has been transferred to the Japanese space shuttle program or any other part of the Japanese aviation sector or aerospace technology;

(2) whether any such technology has been diverted to any third party country unauthorized to receive such technology, in violation of the license and technology assistance agreement for the FS-X weapon system; and

(3) whether any such technology has been made available, legally or illegally, to adversaries who could use such technology to the detriment of the North Atlantic Treaty Organization (NATO), the United States, any other member country of NATO, Japan, Australia, or New Zealand.

(b) DEFINITION.—For purposes of this subsection, the term "Technical Steering Committee" refers to the FS-X Technical Steering Committee established jointly by the Japan Defense Agency and the United States Department of Defense.

#### SEC. 4. IMPACT OF MOUs RELATING TO THE FS-X WEAPON SYSTEM ON THE COMPETITIVE POSITION OF THE UNITED STATES.

(a) SOLICITATION OF RECOMMENDATIONS.—In the implementation of the Memorandum of Understanding (MOU) and related agreements between the United States and Japan regarding the codevelopment of the FS-X weapon system, and in the negotiation, renegotiation, and implementation of future memoranda of understanding and related agreements concerning coproduction of the FS-X weapon system, the Secretary of Defense shall regularly solicit and consider comments or recommendations from the Secretary of Commerce with respect to the commercial implications of such agreements and the potential impact on the international competitive position of United States industry.

(b) REVIEW BY SECRETARY OF COMMERCE.—Whenever the Secretary of Commerce has reason to believe that any such memorandum of understanding or related agreement has, or threatens to have, a significant adverse impact on the international competitive position of United States industry, the Secretary of Commerce may request a review of the agreement. If, as a result of the review, the Secretary of Commerce determines that the strategic commercial interests of the United States are not being served, the Secretary of Commerce shall recommend to the President any modification to the agreement he deems necessary to ensure an appropriate balance of interests.

(c) CONSIDERATION OF RECOMMENDATIONS.—(1) The President shall consider the recommendations of the Secretary of Commerce concerning—

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(A) the commercial implications of any such memorandum of understanding or related agreement, and

(B) the potential impact on the international competitive position of United States industry, in determining whether such memorandum of understanding or related agreement shall be implemented or agreed upon.

(2) Any such memorandum of understanding or related agreement shall not be implemented or agreed upon if the President determines that such agreement is likely to have a significant adverse impact on United States industry that outweighs the benefits of implementing or entering into such an agreement.

**SEC. 5. DEFINITIONS.**

As used in this joint resolution, the terms "defense article" and "defense service" shall have the same meanings as are given to those terms in paragraphs (3) and (4), respectively, of section 47 of the Arms Export Control Act.

*Speaker of the House of Representatives.*

*Vice President of the United States and  
President of the Senate.*